

Supplementary Committee Agenda



**Epping Forest
District Council**

Area Plans Subcommittee B/C Wednesday, 21st February, 2007

Place: Council Chamber, Civic Offices, High Street, Epping

Room: Council Chamber

Time: 7.30 pm

Committee Secretary: Mark Jenkins, Research and Democratic Services
tel: 01992 564607 Email: mjenkins@eppingforestdc.gov.uk

6. ANY OTHER BUSINESS (Pages 3 - 6)

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

This page is intentionally left blank

REPORT FOR AREA PLANS SUB COMMITTEE B/C – 21 February 2007

Request to discharge/modify requirements of Section 52 agreement (relating to occupation of dwelling by agricultural worker only) concerning Millers Farm, Manor Road, Lambourne.

Recommendation:

For consideration as to whether to discharge the Section 52 agreement.

Solicitors acting for Mr. Taylor, the owner of this holding, request that the Council lifts (discharges) a Section 52 requirement that the dwelling on the site be occupied only by someone employed in agriculture. The background to this request and a summary of the factors Mr. Miller's solicitors make to support their request is as follows.

The holding at Millers Farm as shown on the map in the appendix has an area of some 7 acres and lies in the Green Belt. In 1980 Mr. Taylor acquired this land and in 1982 he also rented a further 125 acres and commenced sheep farming. Mr. Taylor obtained planning permission on appeal in 1985 for a mobile home and in 1989 he also obtained planning permission on appeal for the erection of 'an agricultural dwelling'. A condition on this consent restricted occupation of the dwelling to someone employed locally in agriculture. Mr. Taylor then applied for a dwelling with a different design and the Council granted planning permission in 1990 but subject to both a planning condition AND a Section 52 agreement requiring occupation of the dwelling only by someone working in agriculture.

By 1995 Mr. Taylor's sheep farming enterprise no longer was viable because ('through no fault of his own') he was no longer able to rent the additional 125 acres of land, and he was also not given a sheep quota in 1993 by the Ministry of Agriculture when sheep subsidies were introduced. He ceased farming in 1995 and took over a Woodford property letting light industrial units.

In March this year a certificate of lawfulness application, with associated documents, was submitted on behalf of Mr. Taylor, stating that he had not worked in agriculture for more than 10 years, and therefore requesting the Council to agree that occupation of the dwelling on the site by someone not employed in agriculture was a lawful planning use. After consideration of this application, including sworn statements and evidence of alternative employment, a certificate of lawfulness was issued on 2/5/06.

Principal issues raised by Mr. Taylor's solicitors in support of their request to the Council to lift the Section 52 occupational requirement are:

- a) that planning permission was originally granted for an agricultural dwelling on the strength of a fledgling enterprise solely dependent on the breeding of sheep
- b) the loss of the sheep quota, the relatively small size of the holding (6-7 acres), and the lack of capital/savings accrued from the sheep enterprise, meant that Mr. Taylor was unable to invest in creating a new farming or horticultural business, and he was forced to find employment outside agriculture to support his family, and
- c) that because a certificate of lawfulness has been issued for occupation of the dwelling by someone not employed in agriculture, the associated legal agreement serves no purpose. However, as mentioned above for Willow

Park Farm, the certificate of lawfulness was issued based only on fact, whereas the lifting of the Section 52 agreement is based on planning merit.

Again a reason for the Council entering into an Section 52 agreement in 1990 would have been to provide additional legal 'insurance' that the new dwelling in the Green Belt would be occupied in accordance with planning policy, since this form of condition, as shown in this case, can be breached fairly 'easily' without the planning authority being aware of any non compliance.

However, in the light of the factors raised above the Committee may agree with Mr. Taylor and his solicitors that the Section 52 requirement (relating to occupation of the dwelling by someone employed in agriculture) should be lifted. His solicitors also state that they can apply to the Lands Tribunal to have the section 52 agreement discharged, a route which can be costly and time consuming for both parties.

Finally, the Committee is advised that, on the 6th December 2006, the Area Plans 'A' Sub Committee agreed to lift the requirements of a similar 'agricultural occupation' S.52 agreement relating to Willow Park Farm, Gravel Lane, Chigwell.



Epping Forest District Council
 Planning Services
 Civic Offices
 High Street
 Epping CM16 4BZ

MILLERS FARM

Centre X: 547898.333
 Centre Y: 194543.796
 Width : 450.000
 Angle : .000

Scale : 1:2500

Date : 24 Nov 2006

Time : 11:35:47 AM

Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecutions or civil proceedings. Epping Forest District Council - Licence 100018534.



